



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0559; FRL-9984-80-Region 9]

Air Plan Approval; California; Feather River Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_x) from natural gas-fired water heaters, small boilers, and process heaters. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0559, at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written

comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, EPA Region IX, (415) 972-3286, *schwartz.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local Agency	Rule #	Rule Title	Adopted	Submitted
FRAQMD	3.23	Natural Gas-Fired Water Heaters, Small Boilers, And Process Heaters	10/03/2016	05/08/2017

On November 1, 2017, the EPA determined that the submittal for FRAQMD Rule 3.23 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this rule?*

There are no previous versions of Rule 3.23 in the SIP.

C. *What is the purpose of the submitted rule?*

Emissions of oxides of nitrogen (NO_x) contribute to ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_x emissions. Rule 3.23 limits NO_x emissions in the FRAQMD from natural gas-fired water heaters, small boilers, and process heaters rated

0.075 MM¹ to 1 MM Btu/hr². The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rule?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Measures/Reasonably Available Control Technology (RACM/RACT) for each major source of NO_x in ozone nonattainment areas classified as moderate or above (see CAA sections 182(b)(2) and 182(f)). 40 CFR 81.305 describes FRAQMD as regulating a portion of the Sacramento Metro Area nonattainment area classified as Severe for the 1997 and 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). The rest of FRAQMD is designated as unclassifiable/attainment. Rule 3.23 regulates area sources that are too small to exceed the major source threshold of 25 tons per year for Severe ozone nonattainment areas (see CAA 182(d) and (f)) and is therefore not subject to major source ozone RACT requirements. Nonetheless, FRAQMD must implement all RACM/RACT for NO_x necessary to demonstrate attainment as expeditiously as practicable and to meet any reasonable further progress (RFP) requirements

¹ MM = million

² British thermal unit (Btu): the amount of heat required to raise the temperature of one pound of water from 59°F to 60°F at one atmosphere

(CAA 172(c)(1), 40 CFR 51.912(d), 51.1112(c)).

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement), 57 FR 55620, November 25, 1992.
5. "Alternative Control Techniques Document – NO_x Emissions from Industrial/Commercial/Institutional (ICI) Boilers", US EPA 453/R-94-022 (March 1994).
6. "Alternative Control Techniques Document – NO_x Emissions from Process Heaters (Revised)" (EPA-453/R-93-034 1993/09).
7. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters" (California Air Resources Board, July 18, 1991).

B. *Does the rule meet the evaluation criteria?*

This rule is consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

C. *EPA recommendations to further improve the rule*

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule but are not currently the basis for rule disapproval.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the FRAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40

CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355,

May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: September 21, 2018.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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